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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 March 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 June 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>08/19/2004</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-24 are pending in this application.

Claim Objections

2.   As for claim 21, the claim recites the limitation "The method" that lacks

antecedent basis.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.   Claims 20 and 21 are rejected under 35 U.S.C. 101 as the claimed invention is

directed to non-statutory subject matter.

5.   As for claims 20 and 21, the claims fail to place the invention squarely within one

statutory class of invention. In the claims, applicant intends to claim a "data signal". As

such, the claim is drawn to a form of energy. Energy is not one of the four categories of

invention and therefore this claim is not statutory. Energy is not a series of steps or acts

and thus is not a process. Energy is not a physical article or object and as such is not a

machine or manufacture. Energy is not a combination of substances and therefor not a

composition of matter.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

7.   Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by DeLong et

al. (US Pat. # 5,892,947), hereinafter "DeLong".

8.   As for claim 22, DeLong discloses:

A method for evaluating tests of a computer program (Abstract, line 1),

comprising the steps of:

generating within a test automation environment (101 and 105, FIG. 7) test

automation code (test programs, Col. 1, lines 39-40 and FIG. 2 and 7) for automatically

testing a computer program (FIG. 2, 3, and 7, and Col. 4, lines 48-49);

transferring automatically to a test results analysis environment (INTERFACE 49,

FIG. 4) the test results generated by executing the test automation code upon the

computer program (Col. 4, lines 48-50 and FIG. 4);

receiving the test results analysis (a test report, Col. 7, line 53) within a test

results analysis environment (INTERFACE 49) without requiring users of the test results

analysis environment to know where the test results (test results 29, Col. 4, line 50)

were stored within the test automation environment (101 and 105, FIG. 7) and without

requiring the users themselves from having to enter into the test automation

environment (Col. 7, lines 50-54 and FIG. 4; note that the users view the test results

analysis through INTERFACE).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 1-7, 10-19, and 23-24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over DeLong in view of Ottensooser (US Pat. # 5,905,856).

11.   As for claim 1, DeLong discloses:

        A system for evaluating tests of a computer program (Abstract, line 1),

comprising:

        a test automation environment (101 and 105, FIG. 7) that provides for generation

of testing code (test programs, Col. 1, lines 39-40 and FIG. 2 and 7) so that the

computer program can be tested with respect to predetermined testing criteria (FIG. 2,

3, and 7, and Col. 4, lines 48-49; note that TEST PLAN 40 in FIG. 3 is predetermined

testing criteria);

a test results analysis environment (INTERFACE 49, FIG. 4) that provides for

review of test results (test results 29, Col. 4, line 50) generated by executing the testing

code with respect to the computer program (FIG. 4 and Col. 4, lines 48-50);

wherein the generated test results are automatically transferred to the test results

analysis environment (Col. 7, lines 50-54 and FIG. 4).

But DeLong does not explicitly disclose:

wherein the test results analysis environment is separate and insulated from the

test automation environment;

However, Ottensooser discloses:

wherein the test results analysis environment (SQA Test Log Viewer, Col. 5, line

39) is separate and insulated from the test automation environment (25, FIGURE 1 and

Col. 5, lines 18-21 and 38-42; note that Script Programmer develops test scripts, and

Plan Writer and Test Administrator are insulated from details of test scripts);

It would have been obvious to one of ordinary skill in the art at the time of invention was

made to combine the teachings of DeLong with the teachings of Ottensooser by having

the test results analysis environment that is separate and insulated from the test automation environment in order to establish applicable test conditions 5 appropriate to evaluate desired features or functionalities of the software design (DeLong, Col. 1, lines 25-27).

12.   As for claim 24, DeLong discloses:

An end-to-end system for evaluating tests of a computer program (Abstract, line 1), comprising:

means for generating within a test design environment testing criteria (TEST PLAN 40, FIG. 3) for testing the computer program (FIG. 3 and Col. 6, lines 49-50);

means for generating within a test automation environment (101 and 105, FIG. 7) test automation code (test programs, Col. 1, lines 39-40 and FIG. 2 and 7) for automatically testing a computer program based upon the testing criteria (FIG. 2, 3, and 7, and Col. 4, lines 48-49; note that TEST PLAN 40 in FIG. 3 is predetermined testing criteria);

means for transferring automatically to a test results analysis environment (INTERFACE 49, FIG. 4) test results (test results 29, Col. 4, line 50) generated by executing the test automation code with respect to the computer program (FIG. 4 and Col. 4, lines 48-50);

means for receiving the test results (a test report, Col. 7, line 53) within the test results analysis environment (INTERFACE 49, FIG. 4) without requiring a user of the test results analysis environment to know where the test results (test results 29, Col. 4,

line 50) were stored within the test automation environment (101 and 105, FIG. 7) and

without requiring the user from personally having to enter into the test automation

environment (Col. 7, lines 50-54 and FIG. 4; note that the users view the test results

through INTERFACE);

But DeLong does not explicitly disclose:

wherein a test designer and a test results analyst operate in separate and

insulated software environments from the test automation environment.

However, Ottensooser discloses:

wherein a test designer (Plan Writer 31, FIGURE 1) and a test results analyst

(Test Administrator 41, FIGURE 1) operate in separate and insulated software

environments (a normal text editor and SQA Test Log Viewer, Col. 5, lines18-20 and

Col. 5, line 39) from the test automation environment (25, FIGURE 1 and Col. 5, lines

18-21 and 38-42; note that Script Programmer develops test scripts, and Plan Writer

and Test Administrator are insulated from details of test scripts).

It would have been obvious to one of ordinary skill in the art at the time of invention was

made to combine the teachings of DeLong with the teachings of Ottensooser by having

the test results analysis environment that is separate and insulated from the test

automation environment in order to establish applicable test conditions 5 appropriate to

evaluate desired features or functionalities of the software design (DeLong, Col. 1, lines 25-27).

13.   As for claim 2, the claim is rejected for the same reasons as claim 1 above. In addition, Ottensooser discloses:

a test results analyst (Test Administrator 41, FIGURE 1) using the separated and insulated test results analysis environment (SQA Test Log Viewer, Col. 5, line 39) is not required to be knowledgeable about how to generate testing code for testing software applications (FIGURE 1 and Col. 5, lines 18-21 and 38-42; note that Script Programmer develops test scripts).

14.   As for claim 3, the claim is rejected for the same reasons as claim 1 above. In addition, Ottensooser discloses:

the test results analyst (Test Administrator 41, FIGURE 1) is not skilled in computer programming (note that Test Administrator is not skilled in computer programming).

15.   As for claim 4, the claim is rejected for the same reasons as claim 1 above. In addition, Ottensooser discloses:

role of the test results analyst (Test Administrator 41, FIGURE 1) is performed at least substantially independently from the role of a test automator (Script Programmer

20, FIGURE 1), wherein the test automator uses the separated and insulated test

automation environment (25, FIGURE 1).

16.   As for claim 5, the claim is rejected for the same reasons as claim 1 above. In

addition, Ottensooser discloses:

testing of the computer program by the test automator (Script Programmer 20,

FIGURE 1) occurs substantially independently from the analysis of the test results by

the test results analyst (Test Administrator 41, FIGURE 1) (FIGURE 1 and Col. 5, lines

7-17 and 38-42).

17.   As for claim 6, DeLong discloses:

the generated test results (a test report, Col. 7, line 53) are stored in a

predetermined location for use within the test results analysis environment (Col. 7, lines

50-54 and FIG. 4; note that the users view the test results analysis through

INTERFACE).

18.   As for claim 7, the claim is rejected for the same reasons as claim 1 above. In

addition, DeLong discloses:

the transferring of the generated test results (a test report, Col. 7, line 53) to the

test results analysis environment (INTERFACE 49, FIG. 4) involves copying or moving

the generated test results from the test automation environment (101 and 105, FIG. 7)

to the test results environment (Col. 7, lines 50-54 and FIG. 4);

the transferring is automatically transferred without being requested by a test

results analyst (Col. 7, lines 50-54 and FIG. 4).

and Ottensooser discloses:

wherein the transferring is automatically transferred based upon request of a test

results analyst (Test Administrator 41, FIGURE 1 and Col. 5, lines 38-42).

19.   As for claim 10, the claim is rejected for the same reasons as claim 1 above. In

addition, Ottensooser discloses:

a test designer (Plan Writer 31, FIGURE 1) independently generates the testing

criteria (test plans, Col. 6, lines 32); wherein a test automator (Script Programmer 20,

FIGURE 1) and a test results analyst (Test Administrator 41, FIGURE 1) operate in

separate and insulated software environments from the test designer's environment (,

Col. 5, lines18-20) a normal text editor for generating the testing criteria (FIGURE 1).

20.   As for claim 11, the claim is rejected for the same reasons as claim 1 above. In

addition, Ottensooser discloses: .

an automation independent tool (SQA Test Log Viewer, Col. 5, lines 38-40) for

use by the test results analyst (Test Administrator 41, FIGURE 1 and Col. 5, lines 38-

40);

the automation independent tool (SQA Test Log Viewer, Col. 5, lines 38-40)

insulates the test results analyst (Test Administrator 41, FIGURE 1) from details of the

testing coding (test scripts, Col. 5, line 8) generated by the test automator (Script

Programmer 20, FIGURE 1) to test the computer program (FIGURE 1).

21.   As for claim 12, DeLong discloses:

        the test automation environment (101 and 105, FIG. 7) includes capability to test

the computer program in order to generate the test results (FIG. 7).

22.   As for claim 13, DeLong discloses:

        test execution (107, FIG.7) occurs outside the test automation environment (101

and 105, FIG. 7).

23.   As for claim 14, the claim is rejected for the same reasons as claim 1 above. In

addition, Ottensooser discloses:

        the test results analysis environment (61, FIGURE 1) accesses previous test

results (test logs, Col. 1, line 52) related to the testing of the computer program so that

the test results analyst (Test Administrator 41, FIGURE 1) may compare the results

from a recent test to a previous test result (FIGURE 1 and Col. 5, lines 50-52; note that

Repository 22 contains all test logs and Test Administrator can view any test logs

he/she wants to view and compare).

24.   As for claim 15, the claim is rejected for the same reasons as claim 1 above. In

addition, Ottensooser discloses:

the test automator (Script Programmer 20, FIGURE 1) is not involved in

interpreting the test results (60, FIGURE 1; note that Test Administrator interprets test

results).

25.   As for claim 16, DeLong discloses:

the testing criteria (TEST PLAN 40, FIG. 3) includes an action to test a computer-

human interface generated by the computer program (graphical user interface (GUI)

tests, Col. 4, line 11).

26.   As for claim 17, the claim is rejected for the same reasons as claim 1 above. In

addition, Ottensooser discloses:

the testing criteria (TEST PLAN 40, FIG. 3) includes an action to test

performance of the computer program (Col. 1, lines 6-7).

27.   As for claim 18, the claim is rejected for the same reasons as claim 1 above. In

addition, DeLong discloses:

the test automator (101, FIG. 7) examines at least a portion of code details (110

and 102, FIG. 7) associated with the computer program in order to generate the code to

test the computer program (FIG. 7);

and Ottensooser discloses:

the test results analyst (Test Administrator 41, FIGURE 1) is not required to know

code details associated the computer program in order to perform the analysis of the

generated test results (FIGURE 1).

28.   As for claim 19, the claim is rejected for the same reasons as claim 1 above. In

addition, Ottensooser discloses:

        test results analyst (Test Administrator 41, FIGURE 1) operating in the test

results analyst environment (61, FIGURE 1) is a different person than test automator

(Script Programmer 20, FIGURE 1) operating in the test automation environment (25,

FIGURE 1);

        the test results (60, FIGURE 1) are provided such that the test results analyst

(Test Administrator 41, FIGURE 1) is not required to have knowledge of the test

automation code (22, FIGURE 1) that was used to test the computer program (FIGURE

1).

29.   As for claim 23, DeLong does not explicitly disclose:

        the test results analysis environment is separate and insulated from the test

automation environment.

However, Ottensooser discloses:

        wherein the test results analysis environment (SQA Test Log Viewer, Col. 5, line

39) is separate and insulated from the test automation environment (25, FIGURE 1 and

Col. 5, lines 18-21 and 38-42; note that Script Programmer develops test scripts, and

Plan Writer and Test Administrator are insulated from details of test scripts);

It would have been obvious to one of ordinary skill in the art at the time of invention was

made to combine the teachings of DeLong with the teachings of Ottensooser by having

the test results analysis environment that is separate and insulated from the test

automation environment in order to establish applicable test conditions 5 appropriate to

evaluate desired features or functionalities of the software design (DeLong, Col. 1, lines

25-27).

30.   Claims 8 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable

over DeLong in view of Ottensooser, and further in view of Hansen (US Pat. #

6,449,744 B1).

31.   As for claim 8, both DeLong and Ottensooser do not explicitly disclose:

        the test results analysis environment includes an internet web browser in order to

view the generated test results.

However, Hansen discloses:

        the test results analysis environment (the test environment 250, Col. 5, lines 19-

20) includes an internet web browser (a web browser 252, Col. 5, line 25) in order to

view the generated test results (Col. 7, lines 62-65 and Fig. 3A).

It would have been obvious to one of ordinary skill in the art at the time of invention

was made to combine the teachings of DeLong and Ottensooser with the teachings of

Hansen by having the test results analysis environment that includes an internet web

browser in order for the local tester and the remote tester to exchange data

representing the test program and test results through a network (Hansen, Col. 4, lines

15-18).

32.   As for claims 20-21, both DeLong and Ottensooser do not explicitly disclose:

        A data signal that is transmitted using a network, wherein the data signal

includes the test results of claim 1.

        the data signal comprises packetized data that is transmitted through a carrier

wave across the network.

However, Hansen discloses:

        A data signal that is transmitted using a network, wherein the data signal

includes the test results of claim 1 (exchange data representing the test program and

test results through a network, Col. 4, lines 15-18).

        the data signal comprises packetized data that is transmitted through a carrier

wave across the network (exchange data representing the test program and test results

through a network, Col. 4, lines 15-18).

33.   It would have been obvious to one of ordinary skill in the art at the time of

invention was made to combine the teachings of DeLong and Ottensooser with the

teachings of Hansen by having a data signal that is transmitted using a network,

wherein the data signal includes the test results of claim 1 and having the data signal

that comprises packetized data that is transmitted through a carrier wave across the

network in order for the local tester and the remote tester to exchange data representing

the test program and test results through a network (Hansen, Col. 4, lines 15-18).

34.   Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeLong

in view of Ottensooser, and further in view of Walker et al. (Mark H. Walker and Nanette

Eaton, Microsoft Office Visio 2003 Inside Out , Microsoft Press, October 29, 2003),

hereinafter "Walker".

35.   As for claim 9, both DeLong and Ottensooser do not explicitly disclose:

        format.of the generated test results include JPEG, HTML, GIF, and combinations

thereof.

However, Walker discloses:

        format of the generated test results include JPEG, HTML, GIF, and combinations

thereof (Chapter 26, Section: Saving Space Plans on the Web, Page 1 of 2; note that

test results can be saved as HTML, JPEG, or GIF).

It would have been obvious to one of ordinary skill in the art at the time of invention was made to combine the teachings of DeLong and Ottensooser with the teachings of Walker by having format of the generated test results to include JPEG, HTML, GIF, and combinations thereof in order to share test results (Walker, Chapter 26, Section: Saving Space Plans on the Web, Page 1 of 2, 1st paragraph).
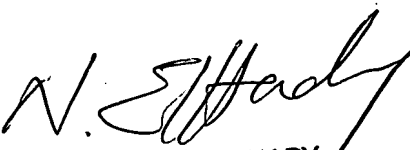
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Songwei Qian whose telephone number is 571-270-1910. The examiner can normally be reached on M-F (alternative Friday off 8:00am thru 5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nabil El-Hady can be reached on 571-272-3963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SQ
07/19/2007

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